

CHAPTER 15

PUBLIC RECORDS

INTRODUCTION

This chapter provides information regarding the public's access to public records and meeting of the governing bodies of public agencies. This chapter also provides information on developing forms and on records management.

OPEN DOOR AND PUBLIC ACCESS

Records, files, and information obtained or maintained by a state agency is considered open to the public unless a statute specifies otherwise. Indiana Code 5-14-3-4 defines records that are not open to the public. Meetings of the governing bodies of public agencies must always be open for the purpose of permitting members of the public to observe and record them. It is recommended that agencies review Indiana Code 5-14-1.5 relating to the open door law and IC 5-14-3 regarding public access. Agencies may also want to review the Public Access Counselor's web site. (www.in.gov/pac/)

Any person may inspect and copy the public records of any public agency during the regular business hours of the agency. A request for inspection or copying must identify with reasonable particularity the record being requested; and be, at the discretion of the agency, in writing on or in a form provided by the agency. No request may be denied because the person making the request refuses to state the purpose of the request, unless such condition is required by another applicable statute. For copies of paper documents at the state level, the Indiana Department of Administration may establish a uniform copying fee for agencies under the executive branch. The state judicial and legislative branches set their own fees.

Except as provided in IC 5-14-1.5-6.1, all meetings of a governing body of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them. A governing body that utilizes an agenda must post a copy of the agenda at the entrance to the location of the meeting prior to the meeting. A memoranda (or minutes) of the meeting must be kept. The memoranda must include the following:

- 1) The date, time and place of the meeting.
- 2) The members of the governing body recorded as either present or absent.
- 3) The general substance of all matters proposed, discussed, or decided.
- 4) A record of all votes taken, by individual members if there is a roll call.
- 5) Any additional information required under IC 5-1.5-2-2.5 or IC 20-12-63-7.
(These two statutes apply only to the IN Bond Bank and IN Education Facilities Authority, consecutively.)

The memoranda are to be available within a reasonable period of time after the meeting for the purpose of informing the public. They are to be open for public inspection and copying.

COMMISSION ON PUBLIC RECORDS

Records Management and Forms Management are two of the important lead services provided by the Indiana Commission on Public Records (ICPR) to assist both state agencies and other government entities in managing the life cycle of their public records. ICPR's functional divisions are:

Records Management	State Archives
Forms Management	Conservation Lab
State Records Center	Imaging/Micrographics

ICPR's overall mission is to assist state and local governments in the efficient management of public records, including design, use, storage, and permanent preservation. The Oversight Committee on Public Records (OCPR) functions as ICPR's policy-making body.

Coordinators and Handbooks

According to Indiana Code 5-15-5.1-10(7), each agency shall designate an agency information coordinator, who is to assist the Commission on Public Records in the content requirements of the form design process and in the development of the agency's records retention schedules.

So your agency should have a designated information coordinator for forms and records; or it may have separated the duties by designating one person as a forms coordinator and another as a records coordinator.

Your agency can update the coordinator position(s) at any time by completing a State Form 42035 (Notice of Change of Agency Coordinator) and submitting it to ICPR.

ICPR conducts periodic training for the coordinators. A Forms Coordinator Handbook may be obtained by contacting the Commission on Public Records. A Records Coordinator's Handbook may be found on the Commission of Public Records website. (<http://www.in.gov/icpr>)

Definitions (From IC 5-15-5.1-1)

"AGENCY" means any state office, department, division, board, bureau, commission, authority, or other separate unit of state government established by the constitution, law, or by executive or legislative order.

"FORM" means every piece of paper, transparent plate, or film containing information, printed, generated, or reproduced by whatever means, with blank spaces left for the entry of additional information to be used in any transaction involving the state.

"RECORD" means all documentation of the information, communicative or decision making processes of state government, its agencies and subdivisions made or received by any agency of state government or its employees in connection with the transaction of public business or government functions, which is created, received, retained, maintained, or filed by that agency or its successors as evidence of its activities or because of the information value of the data in the documentation, and which is generated on:

- (1) paper or paper substitutes,
- (2) photographic or chemically based media,
- (3) magnetic or machine readable media, or
- (4) any other materials, regardless of form or characteristics.

"RECORDS SERIES" means documents or records that are filed in a unified arrangement, and having similar physical characteristics or relating to a similar function or activity.

"RETENTION SCHEDULE" means a set of instructions prescribing how long, where, and in what form a record series shall be kept.

NOTE: A "form" is often the medium by which information is gathered, processed, or documented. Most forms either constitute a "record" or are part of a "record".

Records Management

Records Retention and Disposition Schedules are recorded on State Form 5. There are two types of schedules. One is the "Agency Records Retention Schedule" which is unique to the needs of that agency. The other is the "General Retention Schedule" whose generic titles and retention periods are pre-approved and available for use by all agencies as needed.

Documents should be retained in accordance with a retention schedule approved by the Oversight Committee on Public Records. Generally, basic accounting records cannot be transferred to the Records Center until issuance of the applicable state audit report and satisfaction of any unsettled charges.

Your designated records coordinator should have a current copy of your agency's Records Retention Schedule. If not, the coordinator can obtain a copy by contacting a records analyst in ICPR's Records Management Division. You may also search both retention schedules on the ICPR's website at www.in.gov/icpr/.

Approval of a new retention schedule or an amendment or deletion to an existing schedule must undergo a review process and then be submitted for approval to the Oversight Committee on Public Records. ICPR's records analysts will assist your coordinator in drafting the retention language and seeing the new schedule, amendment, or deletion through the process.

Some key considerations in drafting retention language are how long to retain the record series; where to maintain it; in what form to maintain it; and what impact does it have (legal, fiscal, historical, etc.?)

Public officials or agencies may not dispose of government records except under an approved Records Retention Schedule or with the written consent of ICPR via the Oversight Committee on Public Records.

To assist the agencies in the proper disposal of government records, ICPR offers the services of the State Records Center for temporary storage; Micrographics for microfilming; State Archives for permanent/historical storage; and the Conservation Lab for restoration and preservation of records.

Consult with your coordinator for details on utilizing these services.

Forms Management

Forms Management is the program maintained by ICPR to provide continuity of forms design procedures from the forms' origin up to its completion as a record by determining the form's size, type style, format, construction, and paper type and quality. This includes determining how the form will be used, completed, and distributed.

All forms devised and used by state agencies must be approved by ICPR and have a state form number assigned by ICPR.

APPROVAL OF NEW OR REVISED FORMS

The State Board of Accounts is charged by statute with the responsibility of prescribing and installing a system of accounting and reporting which shall be uniform for every public office and every public account of the same class [IC 5-11-1-2]. The State Board of Accounts must prescribe or approve any form that is a part of an agency's accounting system or relates to money being collected by an agency.

If an agency needs to implement a new form requiring State Board of Accounts approval or needs to revise an existing prescribed/approved form, a letter and three copies of the proposed form must be submitted to the State Board of Accounts for approval. Along with the form send a description of the use of the form, as well as how the form will be processed and the related internal controls. If the form is a revision, a copy of the old form should be included. In addition, all forms and reports that the Auditor of State utilizes for processing are subject to approval by that office under IC 4-7-1-4.1. This approval is to be obtained first and a copy included with the other documentation sent to the State Board of Accounts. No form should be printed and placed in use, other than a prescribed form, without prior State Board of Accounts approval. Officials and employees are required to use State Board of Accounts prescribed or approved forms in the manner prescribed or approved.

HOW TO ORDER A NEW OR REVISED FORM

Complete a "Request for Approval of New/Revised Form", State Form SF #36040. If a NEW form, attach a proposed version; if a REVISED form, attach two printed samples of the form with the corrections noted. If your form will be converted to electronic form or published online, submit a "Request for Approval of Electronic Form", State Form #48874.

Indicate by checking the appropriate box in "Part One" of the request form whether you wish Forms Management's designers to create/revise your form ("Forms Management"), or if you wish an outside vendor to create/revise your form ("Other"), or if you are submitting your own artwork ("Requesting Agency"). (Remember, Forms Management's design work is FREE).

Send the request form and the attached proposed version (new form), or the corrected samples (revised form), to the Forms Management Division of the Commission on Public Records

If you have chosen Forms Management's designers to create/revise your form, you can expect to receive the second copy of the request form signed by the designer working your form. Should the designer have any questions, he/she will either telephone or write to your forms coordinator.

If your agency is submitting the artwork, or if you have chosen an outside vendor to create/revise your form, you can expect to receive the second copy of the request form signed by the analyst working your form. The analyst will telephone or write to your forms coordinator if he/she has any questions.

When applicable, obtain approvals from the Auditor of State and the State Board of Accounts.

Artwork to be Supplied by Forms Management's Design Department

Once the initial design/revision is completed, the designer will send your forms coordinator a "proof" of the form attached to an "Approval of State Form Layout by User Agency", SF #841. If the form meets all your agency's needs, you will sign the approval form and return the "proof" and the approval form to the designer. If the form must be altered or corrected, you will make the necessary changes on the proof and return it, and the approval form, to the designer. The designer will either send you an additional "proof" or not, depending on the box that you checked on the approval form.

Request for Printing of the Form

After receiving the signed, completed copy of the Request for Approval, the coordinator then completes a request for printing form, Requisition (State Form 21301), for items to be printed by Central Printing Services, PEN Products or an outside vendor. The Requisition is then sent to the Forms Management Division of the Commission on Public Records.

When documents will be printed by your in-house print shop, complete an in-house print request form, job ticket or job order. If these forms are not available through your agency, complete the Requisition form, leaving the spaces for "requisition number" and "account number" blank. Indicate in the request that it is "In House" printing. Attach two current samples of the form. The request is then sent to the Forms Management Division of the Commission on Public Records.

HOW TO ORDER A "REPRINT" OF A FORM

(NOTE: A "reprint" is loosely defined as, "Requesting more of the existing form." The true "reprint" is: (a) the form currently used by the agency; (b) one that has absolutely no variation from the most recent version housed in the ICPR's files.)

If your agency wishes to order a "reprint" of a form, follow the procedures above for "Request for Printing of the Form."

GUIDELINES FOR ELECTRONIC DOCUMENTS, FORMS AND RECORDS

This broad policy statement has been written as an aid for those agencies that are in the process of identifying and segregating their electronic documents from their electronic forms and records. For purposes of clarification, some definitions follow:

FORM - An electronic form is a standard constant data entry file, stored within a computer system, protected from unauthorized access. The form allows for the entry and editing of variable data. The users may not alter the form. Only the authorized personnel may alter the form. The format allows users to display the constant and variable data together on a CRT. (An electronic form without any software access protection is called a data entry screen.)

CONSTANT DATA - Unchanging data that identifies the variable data or controls the appearance of the variable data. Sometimes constant data is known as field identifiers or labels.

COPY OF AN ELECTRONIC FORM - A duplication of the officially approved state form, which is identical to the state form in all respects with the exception of the medium. The copy contains constant data only, and is printed on paper.

COPY OF AN ELECTRONIC RECORD - A duplication of an officially designated state record, which is identical in all respects with the state record with the exception of the medium. It contains both constant and variable data, and is printed on paper. Under certain legal conditions it is called the original of the record.

DATA REPORT - A document or file which is produced from an automated environment, and which is created for the expressed purpose of data manipulation. If produced on an ad hoc basis, it is called a document and since there is no document control in state government, does not require a state form number. However, if it is produced in a constant, standardized format it is a form, and requires official approval and a state form number.

FORM STORAGE MEDIUM - The environment in and on which data pertaining to official state activities is stored, i.e., paper, floppy disk, hard disk, magnetic tape, optical disk, microfilm, microfiche or transparent film which is required to be included on records retention schedule.

NOTE: For purposes of records retention, any and all media upon which the information is stored must be placed on an OCPR approved retention schedule through the Records Management Division of the ICPR.

APPROVAL PROCEDURE FOR ELECTRONIC FORMS

Approval of a form for the State forms Online Catalog, requires the submission of a "Request for Approval of Electronic Form, SF 48874 and either paper or digital copy of the form. Forms Management will review the request for availability and appropriateness. Requests for original design or revisions must follow the standard forms revision process by submitting a "Request for Approval of New or Revised Form", State Form 36040, prior to submitting the form for addition to the State forms Online Catalog.

OTHER REQUIREMENTS:

1. If the approval of the State Board of Accounts is required the usual routine of obtaining an original letter of approval from the SBA applies. The SBA's original letter of approval must be forwarded to ICPR's Forms Management Division.
2. Creation or changes of electronic forms that require the approval of the Attorney General's Office must follow the usual routine. A copy of the AG's letter of approval must be sent to ICPR's Forms Management Division.
3. Should your agency request an electronic format for a form which is controlled or owned by another agency, your agency's Forms Coordinator must contact the owning or controlling agency's Forms Coordinator. The agency that owns the form must submit the request for an electronic format. This instruction does not apply to universal forms that the controlling agency sponsors for everyone's use.
4. Should your agency wish to revise a form which is controlled by another agency, your agency's Forms Coordinator must contact the owning or controlling agency's Forms Coordinator and inform them of your agency's proposed revision.
 - (a) If the owning or controlling agency approves the revisions to their form, written permission or approval of the revisions to their form must be issued to your agency. Your agency must forward the original letter of permission to ICPR's Forms Management Division.
 - (b) If the owning or controlling agency does not approve the revisions to their form, a new form will be created for your agency's use. Your agency will be identified as the owning or controlling agency of the new electronic form.

The procedures described above are to be followed when requesting analysis and approval for an electronic form.

Revisions for your own electronic forms are to be handled in the manner described above.